THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.7580 of 1998

Dated : 21.06.2007

Between:

The Engineer-in-chief, I & CAD Department,
Errammanzil, Hyderabad and another.

…**PETITIONERS**

And:

M.Maraiah s/o Durgaiah and another.

… RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.7580 of 1998

ORDER:

This writ petition is filed questioning t he Award dated 09.05.1997 passed by the Industrial Tribunal-cum-Labour Court (for short "Labour Court"), Warangal in I.D.No.149 of 1993, whereby, it directed reinstatement of the first respondent into service with continuity of service, but without back wages. First respondent moved the Labour Court under Section 2(A)(2) of the Industrial Disputes Act, 1947 (for short "the Act") questioning his retrenchment on the ground that the petitioners failed to issue notice or paid compensation in lieu of notice, as envisaged in Section 25-F of the Act. The Labour Court, after thorough consideration of the material available on record, held that the retrenchment of the first respondent was not preceded by a notice or payment of retrenchment compensation under Section 25-F of the Act. In view of the said finding, the consequential relief of reinstatement of the first respondent was granted, but however, he was denied the back wages.

Heard the learned Assistant Government Pleader for Irrigation

and Command Area Development, and Sri K.Srinivasa Rao, learned counsel appearing for Sri A.K.Jaya Prakash Rao, learned counsel for the first respondent.

Learned Assistant Government Pleader submitted that the award suffers from an error, because the first respondent, who was merely engaged as a casual labour, was not entitled to notice under Section 25-F of the Act.

It is not in dispute that the first respondent was appointed as helper on NMR basis on 12.01.1977 and he continued as such till his services were terminated on 06.08.1979. It is not the case of the petitioners that the first respondent has not put in 240 days of continuous service, to comply with the provisions of Section 25-F of the Act. Irrespective of the nature of engagement, as the first respondent has completed more than one year of continuous service, he falls within the definition of 'Workman', defined under Section 2-S of the Act, and it is incumbent upon the petitioners to follow the procedure under Section
25-F of the Act. The Labour Court, having found that the petitioners failed to comply with the mandatory provisions of Section 25-F of the Act, ordered for reinstatement. The very fact that the Labour Court has denied the back wages to the first respondent shows that it has balanced the interest of both the parties. I do not see any reason to interfere with the award passed by the Labour Corut, as it does not suffer from any error.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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21.06.2007

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